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PUBLIC UTILITIES COMMISSION

July 18, 1991

CAD BULLETIN 91-4

TO: All UTILITIES

SUBJECT: Application of Section 9(I)(4) of Chapter 810 to Multi-Unit Rental Property

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You have requested whether the specific provisions of Section 9(I)(4) of Chapter 810 of the Commission's rules, Residential Utility Service Standards for Credit and Collection Programs, are applicable to a separate meter for some common area electric usage in a multi-unit rental property. In the situation at issue, each of the units has its own metered utility service. However, there is a common area meter in the name of the landlord, usually for lights in the hallway or basement. Occasionally, it is found that a water pump or a furnace is also connected to this landlord common area meter account which serves the tenants individual units. Section 9(I)(4) requires specific additional activities by the utility prior to the disconnection for a single meter, multi-unit dwelling. You have asked whether these provisions apply to the common area meter when the individual tenants also have service in their own names.

Section 9(I)(1) prohibits disconnection of a "leased or rented dwelling at the request of a lessor, owner or agent ("landlord") or because the landlord (as a customer) has failed to pay an overdue amount ..." unless certain specific procedures are followed. The term "dwelling" is defined in Section 2(K) as an "... apartment ... that is provided with utility service for personal, family or household use."

The first question to consider is whether a common area meter account in the landlord's name constitutes a "leased or rented dwelling", thus triggering Section 9(I) at all. It can be argued that common area lights, for example, are not the subject of a lease or rental agreement and that the landlord's failure to pay his account does not threaten the utility services provided to the tenants, all of whom are separately metered for utility services in their own units. On the other hand, when the

landlord's account includes a furnace or water pump that directly provides needed electricity to supply heat or water for the tenant units, Section 9(I) is applicable. It may be more efficient to handle all landlord common area accounts in a uniform manner rather than trying to distinguish between incidental hallway lights and other uses that directly affect the habitability of a tenant's unit. In any case, Section 9(I) applies to the disconnection procedures when a common area meter serves electricity to appliances that directly affect the habitability of individual tenants.

The intent of the additional provisions of Section 9(I)(4) of Section 9 of Chapter 810 was to specifically discourage and make more difficult the disconnection of a tenant's utility service when a landlord fails to pay for utility service in a "single-meter, multi-unit dwelling". The rule does not specifically address the situation at issue here. The policy issues that led to the development of these additional procedures normally do not apply when the individual tenants have service in their own name. However, when a landlord's account includes such vital tenant services as a water pump or a furnace, it can be reasonably concluded that the equivalent of a single meter exists and Section 9(I)(4) is applicable. The tenants who have an individual meter for their lights, cooking and refrigeration, but who are without water or heat due to the disconnection of their landlord's service, are not much better off than their colleagues in a building with no individual meters at all. Therefore, unless the electric utility has reason to believe that the common area meter does not affect services directly provided to one or more tenant dwellings, the procedures of Section 9(I)(4) should be followed.

This is an informal staff interpretation. A utility has the right to seek a more formal Advisory Ruling from the Commission pursuant to Chapter 110 of the Commission's rules.

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